

AMENDED IN SENATE APRIL 2, 2009

**SENATE BILL**

**No. 285**

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**Introduced by Senator Wright**

February 24, 2009

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An act to amend Section 695.211 of, and to add Section 685.025 to, the Code of Civil Procedure, and to add Sections 4510 and 4726.5 to add Section 3553 to the Family Code, relating to support judgments.

LEGISLATIVE COUNSEL'S DIGEST

SB 285, as amended, Wright. Support judgments: interest accrual and incarcerated persons.

Existing law provides for spousal, family, and child support under specified circumstances.

Existing law also provides that interest commences to accrue on a money judgment on the date of entry of judgment. Interest accrues at the rate of 10% per annum on the principal amount of a money judgment remaining unsatisfied. Existing law also establishes penalties for the failure to pay court ordered child support not to exceed 6% per month of the original amount of support arrearages or support installment, and not to exceed 72% of the original amount due. Those penalties may not be imposed under certain circumstances, including when the obligor has suffered serious illness, disability, or unemployment which substantially impaired the ability of the support obligor to comply fully with the support order, as specified.

This bill would provide that interest shall not accrue on a judgment for spousal, child, or family support, as specified, while the obligor is incarcerated in a county jail or state prison. The bill would also exempt an obligor who is incarcerated in a county jail or state prison from the penalties described above. The bill would require a court to make an

inquiry to determine whether the obligor is incarcerated in a county jail or state prison whenever the court issues an order for the payment of spousal or child support in order to determine whether these provisions apply.

~~These provisions would not apply if a court determines and makes a finding on the record during or after the obligor's period of incarceration that the obligor has sufficient resources to pay any penalties or interest, as applicable, that would have accrued while the obligor was incarcerated in a county jail or state prison. Existing federal law prohibits payments or benefits due to a disabled veteran, as specified, from being assigned or liable to attachment, levy, or seizure by or under any legal or equitable process.~~

*This bill would provide that benefits awarded to veterans for service-connected disabilities, as provided, shall not be employed to determine a person's income in calculating a support obligation or to satisfy any support obligation.*

*This bill would declare the intent of the Legislature to conform to existing federal law.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. *It is the intent of the Legislature to enact*  
2     *legislation to conform to existing federal law that prohibits*  
3     *payments or benefits due to a veteran, with a service-connected*  
4     *disability, from being assigned or liable to attachment, levy, or*  
5     *seizure by or under any legal or equitable process.*

6     SEC. 2. *Section 3553 is added to the Family Code, to read:*

7     3553. *Federal disability benefits awarded to veterans for*  
8     *service-connected disabilities pursuant to Chapter 11 of Title 38*  
9     *of the United States Code shall not be employed to determine a*  
10    *person's income in calculating a support obligation or to satisfy*  
11    *any support obligation.*

12    ~~SECTION 1. Section 685.025 is added to the Code of Civil~~  
13    ~~Procedure, to read:~~

14    ~~685.025. (a) Notwithstanding Section 685.020, interest shall~~  
15    ~~not accrue on a money judgment for spousal or child support while~~  
16    ~~the obligor is incarcerated in a county jail or state prison.~~

1 ~~(b) Whenever a court issues or modifies an order for the payment~~  
2 ~~of spousal support or child support, the court shall make an inquiry~~  
3 ~~to determine whether the obligor is incarcerated in a county jail~~  
4 ~~or state prison.~~

5 ~~(c) This section shall not apply if a court determines and makes~~  
6 ~~a finding on the record during or after the obligor's period of~~  
7 ~~incarceration in a county jail or state prison that the obligor has~~  
8 ~~sufficient resources to pay any interest that would have accrued~~  
9 ~~had subdivision (a) been applicable.~~

10 SEC. 2. ~~Section 695.211 of the Code of Civil Procedure is~~  
11 ~~amended to read:~~

12 ~~695.211. (a) Unless Section 685.025 applies, every money~~  
13 ~~judgment or order for child support shall provide notice that interest~~  
14 ~~on arrearages accrues at the legal rate.~~

15 ~~(b) The notice provisions required by this section shall be~~  
16 ~~incorporated in the appropriate Judicial Council forms.~~

17 ~~(c) Upon implementation of the California Child Support~~  
18 ~~Automation System prescribed in Chapter 4 (commencing with~~  
19 ~~Section 10080) of Part 1 of Division 9 of the Welfare and~~  
20 ~~Institutions Code and certification of the California Child Support~~  
21 ~~Automation System by the United States Department of Health~~  
22 ~~and Human Services, whenever a statement of account is issued~~  
23 ~~by the local child support agency in any child support action, the~~  
24 ~~statement shall include a statement of an amount of current support,~~  
25 ~~arrears, and interest due.~~

26 SEC. 3. ~~Section 4510 is added to the Family Code, to read:~~

27 ~~4510. (a) Notwithstanding any other provision of law, interest~~  
28 ~~does not accrue on a judgment for spousal, child, or family support~~  
29 ~~while the obligor is incarcerated in a county jail or state prison.~~

30 ~~(b) Whenever a court issues or modifies an order to pay child,~~  
31 ~~spousal, or family support, the court shall enquire regarding~~  
32 ~~whether the obligor is incarcerated in a county jail or state prison~~  
33 ~~in order to determine whether this section and Section 4726.5~~  
34 ~~apply.~~

35 ~~(c) This section does not apply if the court determines and makes~~  
36 ~~a finding on the record during or after the obligor's period of~~  
37 ~~incarceration that the obligor has sufficient resources to pay the~~  
38 ~~interest that would otherwise accrue.~~

39 SEC. 4. ~~Section 4726.5 is added to the Family Code, to read:~~

1     ~~4726.5. This chapter shall not apply while the obligor is~~  
2     ~~incarcerated, unless a court has determined and made a finding on~~  
3     ~~the record before, during, or after the obligor's period of~~  
4     ~~incarceration in a county jail or state prison that the obligor has~~  
5     ~~sufficient financial resources to pay the penalties that would~~  
6     ~~otherwise accrue pursuant to this chapter.~~

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